

Remarks

In the above referenced Office Action, the Examiner divided the claims into the following groups:

Groups I-XII (Claims 27-54) drawn to polypeptide comprising SEQ ID NO: 2, 6-14, or 5, respectively.

In response, the applicants elect for examination Group I (drawn to a peptide comprising SEQ ID NO:2), with traverse. In accord with 37 C.F.R. § 1.143 Applicants have made a provisional election, and amended the claims consistent with this election, in the event the request for reconsideration of the restriction requirement is denied.

Reconsideration of the restriction is requested on the grounds that a telephonic election was made on February 9, 2005 with the prior Examiner, Sheriden Snedden, and in accordance with M.P.E.P. § 812.01. On that date, Examiner Sheriden contacted Applicant's representative to ask for an election of claims between the composition claims and the method of use claims and for a species peptide on which to begin examination. The composition claims were duly elected, and SEQ ID NO:2 was chosen in response to the species election.

In accordance with M.P.E.P. § 706.04, "full faith and credit should be given to the search and action of a previous examiner unless there is a clear error in the previous action or knowledge of other prior art." Applicant's traverse the present restriction on the grounds that full faith and credit should be given to Examiner Snedden's earlier restriction unless clear error is established.

No fees are believed due with this communication. However, the Commissioner is hereby authorized and requested to charge any deficiency in fees herein to Deposit Account No. 50-2207.

Respectfully submitted,

Date: Nov. 21, 2005

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